ANNUAL REPORT

OF THE

ATTORNEY GENERAL

OF THE

STATE OF MICHIGAN,

FOR THE YEAR 1850.

BY AUTHORITY.

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REPORT.

ATTORNEY GENERAL'S OFFICE,
Lansing, January 1, 1851.

To the Legislature of the State of Michigan:

Since my last annual report, the case of George Redfield, State Treasurer, *vs.* Augustus Porter, involving the right of the State to enforce the mortgage given to secure the loan made to the Ypsilanti and Tecumseh Railroad Company, has been decided. It was held that the bill should have been filed in the name of the People of the State of Michigan; and this with some other points of the same nature, has rendered it necessary and expedient that a new bill should be filed. Various questions touching the merits of the case were also decided by the court, and in this respect, in the opinion of the undersigned the ruling was entirely favorable to the claims of the State. A new bill has been prepared, and will probably be filed at an early day.

The case of H. B. Lathrop *vs.* the Agent of the State Prison, has also been decided since my last report. It will be recollected that Lathrop recovered a judgment against the Agent of the State Prison for between $5,000 and $6,000. This judgment has been reversed by the Supreme Court, and on a ground which will probably relieve the State entirely from this claim.

The Detroit & Pontiac Railroad Company have hitherto declined paying to the State the specific State tax on their capital, imposed by the Revised Statutes, on the ground that this right was not reserved to the State in their charter; and further, that they were liable to pay the ordinary taxes to the several counties and towns where their property was situated.

I brought an action against the company to recover the specific State tax; and to settle the question finally, the case was taken to the Supreme Court, where a decision was rendered in favor of the State. The company has since paid all arrear State taxes with interest in full.

In the case of the People *vs* Hart, reserved from Macomb county court, the question was submitted to the Supreme Court, whether the penalty prescribed by section 1 of chapter 41 of the Revised Statutes, could be recovered by indictment. The Supreme Court decided in the affirmative.

Since the adjournment of the last Legislature, the Governor caused to be removed from his office, the Commissioner appointed to expend the land appropriation on the Paw Paw river. The case was one which, if not showing any positive guilty collusion between the Commissioner and the contractors, at least showed between the work done and the price agreed to be paid, such gross inadequacy as to cloud the whole transaction with suspicion. In this state of things it was thought proper that the Auditor General should decline to issue warrants in favor of the contractors under several of the last certificates of the commissioner. The contractors have now obtained an alternative mandamus from the Supreme Court, calling on the Auditor General to show cause why he should not issue his warrants in favor of the contractors. An answer has been put in, and the case will be soon submitted for the decision of the court.

Under the direction of the Governor, I attended during the past summer the trial of Joel Burgess, indicted for murder in the Ionia County Court. The case was one which had enlisted popular sympathies in a more than usual degree. In pursuance of my instructions, I sought to have afforded to the accused as favorable a trial as was consistent with the demands and ends of public justice. The investigation was long and very thorough, but I regret to say that the jury were unable to agree, and the case must be again tried.

I herewith submit *abstracts of all reports which have been received at this office from various Prosecuting Attorneys. No reports have been received the past year from the counties of Barry, Berrien, Chippewa, Ionia, Lapeer, Mackinac, Oakland, Shiawassee, Washtenaw, and Wayne.

GEO. V. N. LOTHROP,
Attorney General.

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*See Joint Documents, 1851, State Library.